

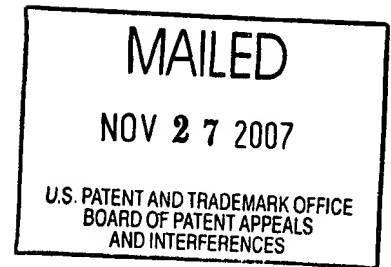
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: RABINDRANATH DUTTA

Application No. 09/583,346

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER



This application was received at the Board of Patent Appeals and Interferences on November 19, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF

An examination of the reveals that the "Related appeals and interferences" section of the Appeal Brief filed December 14, 2006, does not identify prior related proceedings related to this application. It is noted that the Board of Patent Appeals and Interferences mailed a Decision on Appeal on January 28, 2005. 37 CFR 41.37(c)(ii) states:

Related appeals and interferences. A statement identifying **>all prior and pending appeals, judicial proceedings or interferences known to the appellant which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Appellant includes the appellant, the appellant's legal representative and the assignee. Such related proceedings must be identified by application number, patent number, appeal

number (if available) or interference number (if available).< The statement is not limited to copending applications. **>The requirement to identify related proceedings requires appellant to identify every related proceeding (e.g., commonly owned applications having common subject matter, claim to a common priority application) which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Copies of any decisions rendered by a court or the Board in any proceeding identified under this paragraph must be included in an appendix as required by 37 CFR 41.37(c)(1)(x). If appellant does not identify any other items under this section, it will be presumed that there are none.<

EXAMINER'S ANSWER

The Examiner's Answer mailed March 6, 2007, states that "[t]he examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal." However, it should be noted that the Board of Appeals and Interferences mailed a Decision on Appeal on February 3, 2005. Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:


- 1) notify the appellant to submit a "paper" which corrects the Appeal Brief, Related Appeals and Interferences section;
- 2) acknowledge and consider any "paper" that may be submitted by the Appellant in response to the Notice of Non-Compliance to correct the Appeal Brief as required by 37 CFR § 41.37 (c)(ii);

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3) issue and mail a PTOL-90 correcting the Related Appeals and Interferences section;
and

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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PJN/tsj

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